THE HONOURABLE SHRI JUSTICE A. GOPAL REDDY

WRIT ETITION NO.18145 OF 1996

DATE: 28.2.2007

Between:

A. Venkatreswara Rao. …. Petitioner.

And

The Deport Manager, APSRTC,
Machilipatnam, Krishna District
and another. …. Respondents.

The petitioner, who is working as a conductor in 1st respondent-corporation, obtained a Rule from this Court by way of a writ of certiorari calling for the records in I.D.No.445 of 1987 dated 12.6.1989 published in G.O.Rt.No.1578, Women's Development, Child Welfare and Labour Department dated 27.7.1989 insofar as denial of his back wages and continuity of service is concerned and as to why the same be not quashed.

It is not in dispute that while the petitioner was conducting the Bus bearing No.TMN 3098 on the route Challpalli to Machilipatnam on 18.12.1986, a check was conducted by the checking officials and in the check it was found that he collected Rs.6/- from a batch of six passengers at Re.1/- each but had failed to issue the tickets to them and failed to close Rs.1/- done in the tray against stage No.6. A charge sheet was issued on 23.12.1986 calling upon the petitioner to submit his explanation. As the explanation submitted by the petitioner was not satisfactory, a departmental enquiry was ordered. After conducting enquiry, the enquiry officer recorded a finding that all the charges against the petitioner are proved and after considering the explanation to the report of the enquiry officer, the petitioner was dismissed from the service of the Corporation and the same was confirmed in appeal.

Petitioner raised an industrial dispute in I.D.No.445 of 1987. The Labour Court by order dated 12.6.1989 upheld the validity of the domestic

enquiry. The Labour Court found that the spot statements of the passengers and also the statement of the T.T.I. concerned who issued TPT tickets to the six passengers proved beyond doubt that the workman having collected Rs.6/- from the six passengers had failed to issue tickets to them and as such the enquiry officer and also the Deport Manager are quite correct in coming to the conclusion that all the charges were proved. Though the charges were proved, having regard to the fact that a trivial amount is involved in the case, the Labour Court, in exercise of its discretion under Section 11-A of the Industrial Disputes Act, ordered for reinstatement of the petitioner into service afresh without back wages and without continuity of service.

Once the Labour Court found that the charges against the petitioner are proved for misappropriation of the amount, the triviality of the amount involved is not a relevant factor for exercising the discretion under Section 11-A of the Act, but since the same has not been questioned by the Management and has become final, this Court need not go into the said aspect. As regards the denial of continuity of service and back wages is concerned, after going through the entire material on record, this Court is of the considered opinion that the discretion exercised by the Labour Court in that regard does not suffer from any manifest illegality warranting interference by this Court. The Writ Petition, therefore, fails and is liable to be dismissed.

In the result, the Writ Petition is dismissed. No costs.

_____

28th February, 2007 A. GOPAL REDDY, J

vtv